United States Department of Labor Employees' Compensation Appeals Board

G.N., Appellant	
and) Docket No. 20-0945 Legged: April 12, 2022
U.S. POSTAL SERVICE, POST OFFICE, Kennedy, NY, Employer) Issued: April 12, 2022))
Appearances: Appellant, pro se Office of Solicitor, for the Director	Case Submitted on the Record

ORDER REMANDING CASE

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On March 21, 2020 appellant filed a timely appeal from a March 10, 2020 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 20-0945.

On April 25, 2019 appellant, then a 55-year-old clerk, filed a traumatic injury claim (Form CA-1) alleging that, on April 24, 2019, she sustained head, neck, back, hip, and arm injuries when she became unbalanced and fell as she attempted to sit down while in the performance of duty. She noted that her back and neck were never fully healed from a work accident that occurred 14 months prior. Appellant stopped work on April 26, 2019 and returned to part-time, modified-duty work of 3.25 hours per day on May 20, 2019. OWCP assigned this claim OWCP File No. xxxxxx418.

On May 31,2019 OWCP accepted the conditions of cervical strain and concussion without loss of consciousness as work related. It paid appellant wage-loss compensation on the supplemental rolls for her loss of wage-earning capacity.

¹ Appellant has a previously accepted traumatic injury claim assigned OWCP File No. xxxxxx387 for neck and back injuries sustained on February 14, 2018.

In an October 21, 2019 note, Luke M. Martinic, a physician assistant, noted that appellant was under medical care for ongoing neck and low back conditions as a result of a work injury. He advised that she was temporarily totally disabled from her regular work and markedly partially disabled with regard to all work. Therefore, Mr. Martinic concluded that appellant was unable to carry out her physical duties as a clerk for the employing establishment. He indicated that the position was too physically demanding for her and it would ultimately continue to aggravate her underlying condition.

On October 31, 2019 appellant filed a notice of recurrence (Form CA-2a) claiming disability beginning October 21, 2019 due to her accepted April 24, 2019 employment injury. She explained that she had continuing symptoms of her accepted injury.

Thereafter, OWCP received medical evidence, including medical reports from Dr. Edward D. Simmons, an attending Board-certified orthopedic surgeon.

OWCP, in a development letter dated February 5, 2020, informed appellant of the deficiencies in her recurrence claim and informed her of the type of evidence necessary to establish her claim. It noted that appellant's accepted conditions were cervical strain and concussion without loss of consciousness. OWCP requested that appellant provide a rationalized medical report explaining the basis of her claimed recurrence. It afforded her 30 days to submit the necessary evidence.

OWCP received additional medical evidence, including an October 21, 2019 letter from Dr. Simmons wherein he opined that appellant's ongoing symptoms remained causally related to her previously accepted February 14, 2018 work injury.

By decision dated March 10, 2020, OWCP denied appellant's recurrence claim, finding that she had not established that she was disabled from work due to a material change or worsening of her accepted April 24, 2019 work-related conditions.

The Board has duly considered the matter and concludes that this case is not in posture for decision. OWCP's procedures provide that cases should be administratively combined when correct adjudication of the issues depends on frequent cross-referencing between files.² For example, if a new injury case is reported for an employee who previously filed an injury claim for a similar condition or the same part of the body, doubling is required.³ Herein, appellant has a previously accepted traumatic injury claim for a February 14, 2018 employment injury in OWCP File No. xxxxxx387 involving her cervical and lumbar spine. OWCP subsequently accepted a traumatic injury claim due to an April 24, 2019 employment incident, resulting in cervical strain and concussion without loss of consciousness, in OWCP File No. xxxxxxx418. Appellant subsequently filed a claim for recurrence of disability for the accepted April 24, 2019 traumatic injury, which OWCP denied. On appeal, she contends that she sustained a recurrence of disability

 $^{^2 \}textit{See} \, Federal \, (FECA) \, Procedure \, Manual, \, Part \, 2 \, -- \, Claims, \, \textit{File Maintenance and Management} \,, \, Chapter \, 2.400.8 (c) \, (February \, 2000).$

³ *Id.*; *D.C.*, Docket No. 19-0100 (issued June 3, 2019); *N.M.*, Docket No. 18-0833 (issued April 18, 2019); *K.T.*, Docket No. 17-0432 (issued August 17, 2018).

on April 24, 2019 due to her previously accepted claim under OWCP File No. xxxxxx387. OWCP failed to properly combine the present case record with the record of the February 14, 2018 employment injury, which appellant has noted was her first work-related cervical and lumbar spine injuries causing disability. For a full and fair adjudication, the case must be returned to OWCP to administratively combine OWCP File Nos. xxxxxxx418 and xxxxxx387.4 Following this and such further development as OWCP deems necessary, it shall issue a *de novo* decision.

IT IS HEREBY ORDERED THAT the March 10, 2020 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this order of the Board.

Issued: April 12, 2022 Washington, DC

> Alec J. Koromilas, Chief Judge Employees' Compensation Appeals Board

> Janice B. Askin, Judge Employees' Compensation Appeals Board

> Valerie D. Evans-Harrell, Alternate Judge Employees' Compensation Appeals Board

⁴ Order Remanding Case, K.B., Docket No. 17-2004 (issued May 4, 2018).